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1970's: legislators' reactions to education for the handicapped

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THE 1970's: LEGISLATORS' REACTIONS TO
EDUCATION FOR THE HANDICAPPED

by

Patricia Susami

CARDINAL STRITCH COLLEGE
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A RESEARCH PAPER
SUBMITTED IN PARTIAL FULFILLMENT OF THE
REQUIREMENTS FOR THE DEGREE OF
MASTER OF ARTS IN EDUCATION
(EDUCATION OF MENTALLY RETARDED CHILDREN)
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This research paper has been
approved for the Graduate Committee
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TABLE OF CONTENTS

Chapter

I. STATEMENT OF THE PROBLEM

Introduction.	1
Statement of the Problem.	2
Limitations.	4
Definitions.	4
Summary.	5

II. REVIEW OF LITERATURE

Reasons for New Legislation.	6
Federal legislation.	8
State legislation.	12

III. INTERIRETATIONS AND CONCLUSIONS

Motivating Factors.	29
Federal Level.	30
State legislation.	30
Conclusions.	32

BIBLIOGRAPHY

CHAPTER I

Statement of the Problem

Introduction

A quiet revolution has been fought within American education during the past few years. Its goal is to obtain the right to an education for all American children, and particularly those known as the handicapped.

This revolution to establish for the handicapped the same right to an education that already exists for the non-handicapped has been occurring throughout the nation, in state and local school board rooms, state legislative chambers and in the nation's courts.¹

The 1970's have begun to show educators and parents of handicapped children that someone does care and that situations can be arranged and laws can be written as to provide education for all children regardless of their handicap.

As Abeson and Weintraub note in their underlying theme, every child no matter what his or her handicap may be, deserves the same rights as any other child. It appears as though it may have taken our country and our legislators two hundred years to

¹A. Abeson and F. J. Weintraub, "New Education Policies for the Handicapped," Phi Delta Kappan 55 (April, 1974), 526.

discover what the founders of our country set out to do in 1776.

Beebe states:

We are in the midst of a national awakening to the fact that we have been depriving retarded persons of many of their legal rights and of the services which would enable them to realize their full potential--a potential which is frequently much greater than we assume.¹

Rutherford Turnbull also states:

Human and constitutional rights are not divisible and may not legally be parcelled out according to the mental, emotional or physical attributes of a person, and. . . the unequal person is entitled to equal treatment.²

Statement of the Problem

State and federal legislators can no longer ignore the exceptional child. His rights must and will be given him. He must be given an education. No child can be refused admittance to school because of his color, race, creed or handicap.

The purpose of the writer, then, was to discover reasons for our nation's shift from sending handicapped to an institution, away from the mainstream of American life, taking the child from his natural family to providing for that child in his own community, or nearby, to counseling his parents and providing him with a teacher trained to meet his needs.

¹N. Lorraine Beebe, "How All Parents Can Help Our Country's Mentally Retarded Youngsters," Parents Magazine 49 (November, 1974), 28.

²H. R. Turnbull, "Accountability: An Overview of the Impact of Litigation on Professionals," Exceptional Children 41 (March, 1975), 427-32.

Why did this sudden interest in education of the handicapped occur? What particular events or social changes brought about this sudden interest in seven million people which had never before been evidenced? These handicapped people had never picketed a public building or interrupted a state legislative chamber session. What set the state legislatures to work on laws concerning the handicapped?

Why this particular time in history? Why not 1980 or 1910? Why was it that so much time was wasted before some legislatures took action? Why is it that some legislatures have not yet taken any action?

What is the role of the United States Government? What has the federal government done in the past? What is government at this level doing to encourage states to provide more money and services for the handicapped?

What exactly is being done at the state level? What has each state provided or not yet provided for the handicapped child?

Finally, what more needs to be done? In what areas of educating the handicapped are states lacking funds, programs and personnel? Where does more emphasis need to be put? What children are still being deprived of their rights?

The purpose of the author then was to investigate, (1) the reasons for the moves of legislators into educating the exceptional child, (2) what has been and is now being done at the federal level, (3) what have state governments done for the handicapped, and (4) what remains to be done.

Limitations

This research was limited, or self-limiting, in time and geographic area. It was limited to the United States federal government and to the fifty state governments.

The federal legislation was limited to a review of the actions at this level of government for the past twenty years from 1955-1975. Legislation at the state level was limited to the period between 1972-1975, which were the beginning years of the legislation for the handicapped.

Definitions

The exceptional child is any child who requires some type of exceptional service beyond that offered in the regular class or by the regular classroom teacher.

The legislators and legislatures are defined as the law-making bodies of our state and federal governments.

Legislation refers to laws.

Federal refers to the United States Government.

"State" can be said to mean any of our fifty states.

Mainstreaming is defined as the continued placement of the exceptional child in with his normal classmates.

A full educational opportunity refers to the obligation of the school to provide to each child all the benefits of the school's program and modification where needed to meet his individual needs and to develop him to his fullest potential.

Right refers to any guaranteed constitutional privilege

granted all people of our nation on an equal basis.

Summary

The researcher has stated the reasons for this paper as: (1) a need to investigate why legislation has begun for the handicapped and (2) in what areas legislation needs to broaden and continue to expand. Definitions of terms to be used in this research review were presented.

CHAPTER II

Review of Literature

Reasons for New Legislation

Over the past twenty years our nation, our states, and the people had begun to realize the huge gap which had been growing between the handicapped child's education and the education of a "normal" child. Two movements which caused Americans to turn and look at the unequal educational situation and then to question were: the civil rights movement of the 1960's and, more importantly, the parents' movement which began in the 1950's.

The exceptional child has characteristics which make him like other children and differences which set him apart. These have made the child a perfect parallel to the American Black. Both have been refused schooling, the child because of his handicap and the Negro because of his color. Both have been denied personal freedom, the child has been thrown in an institution; the Black American has been bought into slavery. Both have lived in a nation whose initial ideals stated that, "All men are created equal. . ." and have certain rights, yet the child was exempted from these ideals of free public education, as was the Negro.

As the civil rights movement spread throughout the nation, its ideas of equality began to apply to more groups of people. As

Patricia Wald, attorney with the Mental Health Law Project states:

The campaign on behalf of the retarded is an outgrowth of the civil rights movement of the 1960's--a piece of the larger movement dealing with the rights of those who have been submerged in our society.¹

The child, however, unlike the black, was unable to speak for himself and to demand his rights. Jacobs terms the last twenty years the "Era of the Parents' Movement". He says these years have

shown a remarkable advance toward justice for the mentally retarded after a long period of stagnation or even retrogression. The appellation for the era is suggested by the fact that it is about twenty years since parents of mentally retarded children began to cast aside their age-old attitudes of resignation, despair and shame and to form associations to demand services and legal protection for the children.²

A brochure put out by the Department of Health, Education, and Welfare names parent organizations as "trail blazers" in the area of civil rights for the handicapped. It expresses the ideals of America--that all children are entitled to certain rights, one of which is a public education. Parent organizations have worked long and hard to push for the rights to which their children have always been entitled.³

From the viewpoint of the parent, these organizations have been able to add the understanding of other parents to their own situations. The parents are better able to understand one

¹"New Help for the Retarded, Some Changing Concepts," U.S. News 76 (May 6, 1974), p.41.

²Augustus M. Jacobs, Mental Retardation Vol. 1. ed. Joseph Wortis (New York: Grune and Stratton, 1970), p. 250.

³Closer Look, "Know Your Rights!" U.S. Department of Health, Education and Welfare (Washington, D.C.), back cover.

another's problems since they are experiencing similar decisions and doubts themselves. Parents have found that by joining together they have been able to accomplish more than they would individually.¹

All over the United States, handicapped children and their parents are demanding an equal opportunity for an appropriate education. What exactly an appropriate education means for the handicapped children is at issue but, in general, state legislatures and federal courts are ruling that public schools may no longer refuse services to any child despite his handicap.²

These rights have finally been legislated to the handicapped child because of the efforts the parents of these handicapped children have expended through their organizations and as a direct outgrowth of the civil rights movements of the 1960's.

Federal Legislation

In 1955 there was absolutely no progress or structures for the handicapped at the federal level.

For example, in 1955 there was not an identifiable categorical mental retardation program or structure in the Federal Government. Concern was minimal. In the eighteen year period between FY Fiscal Year 1955 and FY 1973, federal mental retardation policy was marked by the enactment of earmarking legislation and appropriations thereto, by the establishment of mental retardation Presidential advisory bodies and national goals and by the allocation of mental retardation funds 'substantial in scope, depth, and variety'.³

¹Closer Look, Practical Advice to Parents, U.S. Department of Health, Education and Welfare (Washington, D.C.:National Information Center for the Handicapped, 1974), p. 17.

²Educational Facilities Laboratories, One of Ten (New York: Educational Facilities Laboratories, 1974), p. 3.

³David L. Braddock, "U.S. Federal Funds: A Policy Study," Mental Retardation and Developmental Disabilities VI, ed. Joseph Wortis (New York: Grune and Stratton, 1974), p. 108.

Support for a governmental concern such as mental retardation is generated amidst a network of powers composed of many centers of influence, e.g. the Congress and its leaders, the Administration, the Department of Health, Education, and Welfare, and private groups. Policy is a product of actors and actions taken by the Administration, Congress, and HEW. They are choice-determinants in policy formulations and budget funds transactions.¹

Several objectives which the Federal Government has established as goals for the 1970's are:

- 1) that every child receive an appropriate educational setting by 1980.
- 2) the issue of mainstreaming
- 3) aid to state governments especially in the areas of early childhood education and the education of the severely handicapped
- 4) deinstitutionalization and
- 5) prevention of mental retardation.²

To reach these goals funds for the handicapped have increased from one million dollars in 1955 to \$22.4 million in 1962³ to a \$600 million commitment in 1970⁴ to a \$668 million budget in 1972.⁵

¹Ibid, p. 109.

²Marylane Y. Soeffring, "BEH Officials Identify and Discuss Significant Federal Programs for the Handicapped," Exceptional Children 40 (March 1974), p. 437.

³W. K. Babington and L. L. Braddock, "HEW Mental Retardation Activities and the Role of the Office of Mental Retardation Coordination," Education and Training of Mentally Retarded 8 (December, 1973), p. 230.

⁴Braddock, p. 129.

⁵Ibid, p. 136.

The Rehabilitation Act of 1973 has encouraged states otherwise inclined to overlook their obligations to the handicapped to reconsider their position. This law says that no person shall be denied the right to participate in any program financed by the federal government solely on the basis of their handicap. Since all the states receive federal money to aid in their school programs, no state can discriminate against the handicapped.¹

Federal legislation in the area of rehabilitation was passed in 1973 through P. L. 93-112. These are its basic provisions:

1. It establishes the Rehabilitation Services Administration.
2. State-wide studies will be undertaken to determine the needs of the handicapped and how they can be met.
3. The legislation focuses on severe handicaps.
4. Each person receiving services under the law must be given an individual written program.
5. Special studies and workshops will be initiated.²

A new subcommittee of the Senate Labor and Public Welfare Committee--the Subcommittee on the Handicapped will help to keep awareness of programs and problems of exceptional children at the

¹"Rehabilitation Act of 1973," Journal of Learning Disabilities 7 (August, Sept., 1974). p. 456.

²Martin L. LaVor and Jack C. Duncan, "Rehabilitation Act of 1973 P.L. 93-112," Exceptional Children 40 (March, 1974), p.446.

federal legislative level.¹

The Federal Government assists retarded adults through a Social Security disability benefit. The Federal branch has also encouraged teachers in the special education departments of colleges through grants to them. The Federal Head Start program has encouraged early education for both the handicapped and non-handicapped children.²

The Federal Government has and continues to encourage state governments to legislate for the handicapped. Through this movement at the federal level, states which are concerned about their exceptional children can be given more aids than those states which do not have the foresight to pass this necessary legislation. The Federal Government can force states to provide some services to all children through the withholding of funds for non-compliance. All children deserve equal rights and the federal government has an obligation to ensure that all children are given the opportunity to receive a free public education.

¹Alan Abeson, "Movement and Momentum: Government and the Education of Handicapped Children," Exceptional Children 39 (September, 1972), p. 64.

²"New Help for the Retarded, Some Changing Concepts."

State Legislation

At the present time, all of the states have some provisions for some exceptional children. However, many of the states have not legislated full educational opportunities for all groups of handicapped children. In all instances, the states have put the responsibility for education of the handicapped in the hands of the public schools. In each state law the focus is on "individual diagnosis, evaluation, and program delivery--not classification by labels or group category."¹

Alabama has based its 1973 state law for the handicapped on Florida legislation. It includes provisions for handicapped children from the ages of three to twenty-one,

. . . who have been certified under regulations of the State Board of Education by a specialist as being unsuited for enrollment in regular classes of the public schools or who are unable to be educated or trained adequately in such regular programs including, but not limited to, the mildly and moderately retarded; the speech impaired; the deaf and hearing impaired; the blind and vision impaired; the crippled and those having other physical handicaps, the emotionally disturbed; the socially maladjusted; those with special learning disabilities and the intellectually gifted²

This legislation has created five hundred new special education units within a two year period whereas in the school year 1969-70, 74% of Alabama's handicapped did not receive a public

¹ Educational Facilities Laboratories, p. 4.

² T. Russell, "Mandatory Legislation for Exceptional Children in Alabama," Journal of Learning Disabilities 6 (June, 1973): 39596.

school education and there were only 740 units available to those receiving services.¹

Arizona's law for the handicapped provides a specific sum of money reimbursement to the school district from the state.

These are the amounts:

\$300 per EMR student
\$600 per TMR student
\$50 per gifted student²

Arizona required each school district to submit a plan for education of their exceptional children to the state department by July 1, 1975.³ Each school district is required to provide for the handicapped child in 1976. Some decrease in state aid is now being considered by the Arizona legislature.⁴

Arkansas's state Act #102 (SB 19) which was implemented in July, 1973, includes all exceptional children from ages five to twenty-one.⁵ It requires all school districts to provide educational opportunities by the 1979-80 school year.⁶ Two or more

¹ Ibid.

² Sister Marie Angele Thomas, "Finance: Without Which There Is No Special Education," Exceptional Children 39 (March 1973); p. 47. [Other areas of exceptionality may be included but were not noted by the author.]

³ "Major Events in 1973," Phi Delta Kappan 55 (April, 1974), p. 513.

⁴ C. D. Jones Jr., Special Education in the States: Legislative Progress Report (Denver, Colo.: Education Commission of the States, June 1975), p. 4.

⁵ Educational Facilities Laboratories, p. 4.

⁶ "Major Event in 1973."

school districts may join together to establish joint classes for the handicapped.

Each school district is responsible for testing and evaluation of their exceptional children. Each school district must keep records on children it has tested or examined.¹ Legislation to provide full opportunities by the 1975-76 school year failed in the legislature in 1975.²

California's 1974 legislature passed AB4040 which involves exceptional children from the ages of three to twenty-one³ who are defined as those

individuals whose educational needs cannot be met by the regular classroom teacher and with modification of the regular school program and⁴ who require the benefit of special instruction and services.

The law limits enrollment in special classes to 2% of the total school district's student population.⁵

[AB4040] requires the state board of education to establish a California master plan for special education to be administered by the state superintendent of public instruction. [It] authorizes county superintendents of schools,

¹"Legislation Enacted in 1973," Journal of Learning Disabilities 6 (May 1973), p. 322.

²C. D. Jones Jr., p. 4.

³Educational Facilities Laboratories, p. 4.

⁴C. D. Jones Jr., Special Education in the States: Legislative Progress Report (Denver, Colo.: Education Commission of the States, April, 1975), p. 3.

⁵Jones, June 1975, p. 6.

with approval of the county boards of education, to submit comprehensive local plans to include provisions for testing and placement of individuals, appeal procedures and pupil participation in education programs subject to written consent of parents or guardians. [The California law] requires the state superintendent to review and conduct on-site audits of each approved program. [It] authorizes county superintendents of schools to levy a property tax for support of programs under comprehensive plan. Such taxes shall not exceed the amount by which program expenditures exceed state support. Such tax is in lieu of taxes the county superintendent is otherwise authorized to levy for the support of special education programs.¹

The California code allows the use of mobile classrooms for certain handicapped children.² It allows school districts to include speech disorders within the scope of exceptional children for state aid. Also, children with visual-perception disorders who are enrolled in private nonsectarian schools are eligible for support.³

Colorado's HB 1060 was implemented in July, 1975. It includes provisions for all handicapped children from the ages of five to twenty-one.⁴ Financial reimbursements from the state range from 50 to 100 percent depending upon the services provided by the local school district.⁵ The law includes integration of the handicapped child in regular classrooms wherever practical.⁶

¹Jones, April, 1975, p. 3.

²Ibid, p. 6.

³Ibid, p. 8.

⁴Educational Facilities Laboratories, p. 4.

⁵"Major Event in 1973".

⁶Jones, April, 1975, p. 12.

Connecticut's Education Law 627 provides the parents of some exceptional children with a subsidy of \$2,000 for education of that child in a private facility. The parent must provide any amount of money in excess of \$2,000 for the education of his child.¹ Funds have also been allotted for the formation of group homes in the state.²

Delaware's legislature has limited the units for the learning disabled and emotionally and socially maladjusted children to a 10% annual growth rate. Since these are new programs, this limitation is particularly difficult for school districts who wish to provide services to these children.³

Florida's legislation for handicapped persons was described above through Alabama's adaptation. Florida's laws do not presently apply to disruptive students,⁴ but do include funding for some gifted children.⁵ Funds for group homes have been allotted by the Florida legislature.⁶

¹Leonard Zneimer, "The Private Residential Program as Another Alternative to State Institutions," Exceptional Children 39 (January, 1973), p. 330.

²"New Help for the Retarded, Some Changing Concepts," p. 42.

³Thomas, p. 476.

⁴Jones, June, 1975, p. 6.

⁵Ibid, p. 8.

⁶"New Help for the Retarded, Some Changing Concepts".

Georgia's legislation for the exceptional child was amended to include provision that:

After July 1, 1976, any person certified as a teacher, principal or guidance counselor must have satisfactorily completed a course of five or more quarter hours, approved by the state board of education, in the identification and education of children with special educational needs, or must have satisfactorily completed an equivalent preparation in a staff development program designed to assist teachers, principals and guidance counselors in the identification and education of children with special educational needs, provided such programs have received prior approval of the state board of education.

Teachers, principals and guidance counselors of other states who would be employed and certified in Georgia schools but lack the requirements of this provision would have a period one year from the date of employment to obtain this prescribed training. Teachers already certified in Georgia would have until their recertification date to comply with this provision.¹

Hawaii has demanded equal education for all exceptional children without legislation. Rather, the state department of education issues an order directing all school districts to provide equal education.²

Idaho's law uses a state aid formula which involves counting each exceptional child as three normal children for reimbursement of state funds to the local school district.³

Illinois' state law (HB322 and 323) was implemented in 1972. The legislation includes provisions for handicapped persons from

¹ Jones, June, 1975, p. 3.

² Educational Facilities Laboratories, p. 3.

³ Thomas, p. 476.

three to twenty-one, but includes no provisions for mainstreaming.¹

Illinois' legislation involves a unique system of reimbursement for personnel including: \$6,250 for a director of special education, school psychologist and special teacher; \$4,000 for other professional workers; and \$2,500 for other non-certified employees.² It also provides a reimbursement system for private special education services where public schools do not provide these services.³

Indiana provides services to some special children. In other cases the state reimburses nonpublic schools for services they render to pupils with unusual needs.⁴

Maine's HB751 was enacted in October, 1973.⁵ It includes in its definition of exceptionality the mentally handicapped, the emotionally disturbed and the multiple handicapped.⁶ Maine's legislation makes equal educational opportunities a state policy and required programs for all handicapped children from the ages of five to twenty to be instituted by July, 1975.⁷ The law also allows

¹ Educational Facilities Laboratories, p. 4.

² Jones, April, 1975, p. 8.
Thomas, p. 477.

³ Jones, June, 1975, p. 11.

⁴ Jones, April, 1975, p. 8.

⁵ Educational Facilities Laboratories, p. 4.

⁶ Journal of Learning Disabilities 8 (February, 1975), p. 68.

⁷ "Major Event in 1973."

state institution residents to attend public schools and classifies them as resident students.¹

Maryland's SB649 was enacted in July, 1973. It includes provisions for children from birth to age twenty.² The state requires school boards to submit plans for the education of exceptional children which are reviewed and approved at the state level.³

A new revision of the bill was approved in 1975 which provides a new funding formula, a four-year phase-in program and certain dollar amounts from the state to the local districts.⁴ Funds for group homes are also in Maryland's budget and they are being formed in the state.⁵

Massachusetts' state legislation for the handicapped, Chapter 71B, was put into effect in September, 1974. It includes handicapped children from the ages of three to twenty-one and encourages mainstreaming.⁶ Funds for group homes were also made available through legislation.⁷

¹Jones, April, 1975, p. 8.

²Educational Facilities Laboratories.

³"Major Event in 1973."

⁴Jones, June, 1975, p. 9.

⁵"New Help for the Retarded, Some Changing Concepts."

⁶Educational Facilities Laboratories, p. 4.

⁷"New Help for the Retarded, Some Changing Concepts."

Michigan was the first state to pass mandatory right to education legislation for the handicapped in Public Law 188. The law which was not completely implemented until July, 1972, has mainstreaming provisions and provides services for children from birth to age twenty-one.¹ In 1975, new legislation continued public support of special education programs through the property tax.²

Mississippi's legislature passed HB74 in 1973. This law created new classes for exceptional children in all areas of the state, especially rural school districts.³ Mississippi's law includes provisions for exceptional children from the age of birth to twenty-one, but excludes mainstreaming procedures.⁴

In any school district where interested persons, agencies or parents of five or more of any one type of exceptional child, or type which may be taught together, petition the board of trustees or governing board of the district for a special class or classes, the school authority shall request within 30 days the State Department of Education to cooperate in securing a screening team to diagnose and evaluate the exceptional children referred. Two or more school districts may join together and contract to establish a special class.⁵

Missouri's Handicapped Children's Act of 1973 (HB474) revised and updated preexisting laws and put penalties on local school districts for noncompliance.⁶ The law provides for special children

¹Educational Facilities Laboratories, p. 4.

²Jones, June, 1975, p. 9.

³"Major Event in 1973."

⁴Educational Facilities Laboratories, p. 4.

⁵"Legislation Enacted in 1973."

⁶Major Event in 1973."

five to twenty-one with mainstreaming provisions.¹ The statute required all teachers without life-time certificates to take a two or more hour course in psychology and education of exceptional children.²

Missouri allots \$6,000 of state aid per class of exceptional children or remedial reading, \$4,000 for other professional staff members and \$2,000 for each full-time teacher aide. New revisions may be made to raise these state aids to a percentage of the actual cost rather than specific money amounts.³

Nebraska's LB403 was passed in 1973.⁴ Nebraska was one of the first states to begin emptying state residential institutions and putting these citizens back into their own communities.

Frequently cited as an outstanding attempt to provide a 'community setting' is the program of the Eastern Nebraska Community Office of Retardation (ENCCR), a joint venture of five county governments that now aids about 1,500 people. ENCCR provides:

1. Speech and physical therapy and social services for young children to enable them to enter public schools.
2. Vocational training to help the retarded find jobs in the community.
3. Residences for all ages--including a hospital wing for the most severely handicapped. An important feature: a

¹ Educational Facilities Laboratories, p. 4.

² Jones, June, 1975, p. 3.

³ Ibid, p. 14.

⁴ Educational Facilities Laboratories, p. 4.

'group house' system where 'parents' supervise activities of residents.¹

In New Jersey, S.B. 1111 removes restrictions on sending handicapped children to private schools operating for profit. Previously state aid was available for children attending public or non-profit school. Children may be sent to any certified school run on a profit basis if the tuition does not exceed the maximum cost of the same special kind of education in public school. Maximum aid varies with the nature of the handicapped and the type of education offered.²

Also New Jersey has these proposed statutes:

. . . when deemed appropriate, each board of education shall . . . identify those children between the ages of three and five who require and who would benefit by a special education program that may prevent their handicap from becoming more debilitating. The board of education may, if a local child study team so recommends and the commission approves, provide for children under the age of five suitable facilities, programs and special services as are provided for children five years of age or older.³

A two-year pilot program will be developed to provide . . . appropriate special education for gifted or talented students. [AB1031] appropriates \$240,000 to the department of education for the purposes of this act. . . 'Gifted or talented' students means students whose intellectual capacity or talent potential in art, language, mathematics, music, or science are so superior that their full potential for development may be significantly impaired by failure to receive an appropriate special education program, or that their ability to profit from the regular education program usually offered to students at their age may be significantly impaired.⁴

New York's state law 4407 provides for the placement of some physically handicapped or mentally retarded children and others in

¹"New Help for the Retarded, Some Changing Concepts," p. 42.

²"Legislation Enacted in 1973."

³Jones, June, 1975, p. 5.

⁴Ibid, p. 11.

private schools. Some parents feel that this placement is very adequate since public schools do not provide programming for their children.¹

Section 4407 provides \$2,000 for each child placed in a private school² to be paid by the school district.³ The state reimburses the local school district for the first \$600. Sage and Guarino ask, "Is Section 4407 providing an 'out' for school districts that find it inconvenient to make services available locally?"⁴

Emotionally disturbed and learning disabled children are not provided for in New York's present law for exceptional children.⁵ Each school district is required to submit a three-year plan for the use of state aid money and continue this planning at regular three-year intervals.⁶

North Carolina's 1974 legislature passed HB1814 which includes special education programs for children ages five to eighteen.⁷ The law provides an excess cost formula for state aid to the

¹Zneimer, p. 330.

²D. D. Sage and R. Guarino, "Unintended Consequences: A Law Which Purports to Aid Handicapped Children", Phi Delta Kappan 55 (April, 1974), p. 533.

³Jones, April, 1975, p. 8.

⁴Sage and Guarino.

⁵Jones, April, 1975, p. 6.

⁶Ibid, p. 9.

⁷Educational Facilities Laboratories, p. 4.

local school district. The district determines the cost of educating a handicapped child and subtracts this amount from the cost of educating a normal child. The state then reimburses the difference to the district.¹

North Dakota's HB1090, which became effective in July, 1975, includes the education of children between the ages of six and twenty.² A most recent addition makes grants available to schools which includes \$7,252,096 for special education.³

Ohio grants a sum of money as state aid for each class of eight special children plus an amount for each additional child. \$1,000 is allotted to administer each ten special education classrooms. Other services are reimbursed to the school districts through the pupil's average daily attendance figures of the exceptional children served.⁴

Oregon has a handicapped child law and also a separate program for the mentally retarded and emotionally disturbed. At the present time, Oregon does not provide in its public schools for many exceptional children and some contracting for services of private institutions may be passed in the legislature.⁵

¹Thomas, p. 477.

²Educational Facilities Laboratories, p. 4.

³Jones, June, 1975, p. 14.

⁴Thomas, p. 476.

⁵Jones, April, 1975, p. 5.

Pennsylvania provides tuition payments to private schools in the amount of \$3,300 for their socially and emotionally disturbed children.¹ Pennsylvania's legislature has also allotted money for the establishment of group homes in the state. In mid-1974, Pennsylvania had put 580 retarded adults in sixty-three group homes and plans to return seven thousand people to communities by 1978.²

South Carolina was the first state to implement mandatory right to education legislation. The law went into effect in February, 1972. It includes children six to twenty-one who have exceptional needs but provides no plans for mainstreaming.³ In 1975, the legislature passed S42 which makes the state department of education responsible for the transportation of special needs children across school district lines.⁴

South Dakota passed in 1972 legislation for the exceptional child from birth to twenty-one.⁵ In addition, South Dakota has recently passed an amendment to the original law which:

Sets up procedures for commitment of mentally retarded persons so as to establish personal rights of such persons, and revises certain laws relating to mentally retarded and developmentally disabled persons.⁶

¹ Jones, June, 1975, p. 12.

² "New Help for the Retarded, Some Changing Concepts."

³ Educational Facilities Laboratories, p. 4.

⁴ Jones, June, 1975, p. 16.

⁵ Educational Facilities Laboratories, p. 4.

⁶ Jones, June, 1975, p. 10.

Tennessee's HB2053 was passed by the 1972 legislature and implemented in July, 1972. The law includes mainstreaming provisions for children between the ages of three and twenty-one.¹

Texas has some provisions for education of the gifted child.² Parents are not at the present time assured of due process in the identification, evaluation and placement of their children, although a law to this effect is pending in the legislature.³

Virginia does not provide full educational opportunities for all exceptional children. Some must attend public schools outside of their school district or private schools.⁴ The school board does reimburse the parents for a part of this education.⁵ The school district and the state share in the total cost of transportation of these students to other districts or private schools.⁶

West Virginia passed HB1271 in 1974 and implemented it in the same year. It includes education for handicapped children from five to twenty-three, being the only state to provide services to that age. It has mainstreaming provisions.⁷

¹Educational Facilities Laboratories, p. 4.

²Jones, June, 1975, p. 12.

³Ibid, p. 10.

⁴Jones, April, 1975, p. 10.

⁵Jones, June, 1975, p. 14.

⁶Ibid, p. 16.

⁷Educational Facilities Laboratories, p. 4.

In August 1973, Wisconsin's SB185 was signed into law. The law allows and requires all children to attend public schools regardless of their handicap. The school district is given the responsibility to guarantee that each child receive an education designed to meet his needs.

The law defines the child as one

. . . who has a mental, physical, emotional or learning disability which, if the full potential of the child is to be obtained, requires educational services to the child to supplement or replace regular education.

SB185 provides many opportunities for the parents of the child to participate in the child's placement and reevaluations.¹

The legislature of Wisconsin has planned a flexible program to meet individual children's needs as determined by frequent evaluations. The law also encourages integration of exceptional children into regular classes wherever feasible.² The state reimburses the local school districts on a 70 percent basis of expenses.³

The following states also have some form of legislation, although specific details were not available: Alaska, Iowa, Kansas, Kentucky, Louisiana, Minnesota, Montana, Nevada, New

¹Wisconsin Association for Mental Health, "Chapter 89: a Primer for Parents," 1974.

²Journal of Learning Disabilities 7, (March, 1974), p. 184.

³Thomas, p. 477.

Hampshire, Oklahoma, Rhode Island, Utah, Vermont, Washington, and Wyoming.¹

The past decade has seen phenomenal growth in special education programs in the United States. Between 1966 and 1972 the monies spent on public school programs for the handicapped children tripled, reaching the level of two billion by 1972 . . . In the space of one year (1972), eight hundred bills were introduced into state legislatures dealing with special provisions for handicapped children, and about 250 of them have been enacted into law.²

¹Educational Facilities Laboratories, p. 4.

²James J. Gallagher, Phi Delta Kappan 55 (April, 1974), p. 516.

CHAPTER III

Interpretation and Conclusions

As was noted in Chapter I, our state and federal governments can no longer ignore the handicapped. Pressures for equal rights legislation has led to the passage of laws at the federal level which guarantee all Americans the rights of a free public school education.

Motivating Factors. It was evident that two factors have greatly influenced state and federal legislators to begin providing for the necessary education of all children within a public school system. These two factors were: (1) the civil rights movement, and (2) the parents' organizations.

The parents were meeting and organizing in the 1950's but with the influence of the civil rights ideals the combination effect was the legislation which has appeared and has been passed and is being implemented in the 1970's.

The parents and educators of exceptional children have been able to use the civil rights movement and to draw from it the ideals that all children deserve an equal education and thus programs are now appearing for the handicapped because of this combination of efforts. It appears that the parents' organizations needed this outside influence to get lawmakers elected and working toward legislation for their children.

Federal Level. Federal laws can encourage states with incentives in the form of grants and more state aids. The federal government can force some compliance by withholding aid to states which do not comply with federal legislation.

Federal legislation should encourage and aid state legislators. Human rights acts and other federal legislation on the equality of all Americans can only guarantee that all children in our country will sometime be able to receive the individual educational program they deserve and require.

State Legislation. Many of the state governments appear to be lacking the foresight to pass legislation for all exceptional children. It appears unfair that almost every state has legislation for the mentally retarded child and yet the learning disabled child may be far more in actual need of some help and may give up without even trying because no one took the time to legislate for his needs.

In some states there is a lack of funding for the emotionally disturbed students. These children are far more likely to get into serious trouble with the law or to spend some of their lives in a state care hospital. The opening of rooms for these children with qualified personnel gives the individual child more of a chance to change his ideas and to lead a more productive adult life. The state could save itself much tax money as an end result.

Some states through their school districts, seemed to have worked a plan so that children of all exceptional areas can be

educated within the district or in a nearby district. Other states seem to prefer to contract out services to other public or to private schools. This appears to be quite expensive. Further, the effort to establish these classes in their own districts should be attempted wherever possible, since the child is entitled to a public school education in his own district.

Many states have included mainstreaming provisions in their legislation. Others have not. The best use of resources could possibly be accomplished by legislative actions which encourage mainstreaming wherever it is feasible. This frees the special teacher to receive another child and the mainstreamed child is with his peers.

State institutions need to be cleared of retarded persons who can return to society and function therein. Many states are finding that this placement of retarded persons is very rewarding to the individuals. It also saves many tax dollars. Instead of the resident using taxes, he becomes a wage earner and taxpayer. Many people who are residents were not given the benefit of these new laws for their education. Many can learn and become responsible members of society, if given the chance.

Although much state legislation has already been enacted and the state funds are beginning to be used, more states must take on the responsibilities to educate all children including the learning disabled and the emotionally disturbed. Mainstreaming needs to be included in all state legislation. Also provisions for the formation of group homes need to spread to every state.

Teacher training in all areas of exceptionality needs to be expanded to the secondary level. At the present time most colleges and universities do provide courses for the teacher of the elementary children with exceptional needs. Children at the secondary level need specially trained teachers also. Legislation cannot be implemented in states unless the colleges have the teachers trained. Supervision and setting up of programs at this level are also needed. Specialized personnel are needed in all of these areas.

Conclusions. The move to educate the exceptional child was initiated by concerned parents. The civil rights movement added strength to the attempts of these parents to secure equal rights for their children.

The federal government can aid states through the passage of money for these special children and their programs. The federal government can only encourage the setting up of programs by the states.

The state governments have begun to legislate for the handicapped child. More money needs to be expended in the areas of learning disabilities and emotionally disturbed. Many states are encouraging group homes as an alternative to large state institutions.

Finally, colleges and universities need to take the upper hand in implementing programs for the secondary level children who need special attention. Supervisory personnel need to be trained especially for this level, and coordinators who are able to set up programs in this area.

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